UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,374	06/22/2001	Stephane Kasriel	155.1005.01	9190

54092	7590	03/21/2006

NORTH OAKS PATENT AGENCY
45 ISLAND ROAD
NORTH OAKS, MN 55127

EXAMINER
VERBRUGGE, KEVIN

ART UNIT	PAPER NUMBER
2189	

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/888,374	KASRIEL ET AL.
		Examiner	Art Unit
		Kevin Verbrugge	2189

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 March 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,12-14 and 17-27* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,12-14 and 17-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All b)☐ Some * c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date <u>3/6/06</u>.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/6/06 has been entered.

Response to Amendment

This final Office action is in response to the amendment filed with the RCE mentioned above that canceled claims 9-11, 15, 16, 28, and 29. Claims 1-8, 12-14, and 17-27 are pending. The arguments presented in the remarks section are not persuasive and the amendments essentially amount to rewording of previous limitations which were present in dependent claims, therefore the rejections are maintained and made final.

Response to Argument

On page 7 of the amendment, second paragraph, Applicant argues that "Each object as described throughout the Goulde reference appears to be an entire document, file, or web element."

However, on page 27, Goulde teaches using a header to expire individual objects which are parts of a document. In the third paragraph of page 27, Goulde states that the "expires" header and "max-age" directive allow "servers to annotate objects with their freshness lifetime" and allow a cache to "serve the object during that lifetime." Furthermore, in the next to last paragraph, Goulde teaches that one example of techniques that designers can use in the construction of a site that makes its content more cache-friendly include "Refer to objects consistently. If the same content is used on different pages . . . they should all use the same URL", clearly teaching that objects are part of pages. Objects as defined by Goulde are not entire documents as argued by Applicant.

Furthermore, the passages of Goulde cited in the statement of the rejection clearly indicate that Goulde uses different objects to create a page, sometimes creating a single page out of one or more static objects and one or more dynamic objects.

It is clear from Goulde's disclosure that Goulde's device creates documents (pages) from static and dynamic portions (objects). Therefore the rejections are maintained and made final.

The remaining arguments are directed to the limitations that relate to work being done outside the client, in what Applicant refers to as a "clientless" manner. These limitations are present in the Goulde reference in the proxy server as previously discussed and previously rejected. Additional explanation is provided in the grounds of rejection below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

Claim 1 recites the limitation "the client" in line 6. There is insufficient antecedent

basis for this limitation in the claim. The claim also recites the limitation "a client" in line

7. Presumably Applicant meant to have "a client" in line 6 and "the client" in line 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public
use or on sale in this country, more than one year prior to the date of application for patent in the United
States.

Claims 1-8, 12-14, and 17-27 are rejected under 35 U.S.C. 102(b) as being

anticipated by the article "Network Caching Guide: Optimizing Web Content Delivery,"

by Michael A. Goulde, relevant portions of which are reproduced here (emphasis added,

captured with optical character recognition software which may have made errors, refer

to original document for exact text).

p. 13 (third paragraph)
The content requested from the Web server (also known as an HTTP server) may be a
static HTML page with links to one or more additional files, including graphics. Thr
content may also be a dynamically created page that is generated from a search
engine, a database query, or a Web application. The HTTP server returns the requested
content to the Web browser one tile at a time. <u>Even a dynamically created page
often has static components that are combined with the dynamic content to create
the final page.</u>

p. 14 (last two paragraphs)
Network caching can be applied to content delivered over many different
protocols. These .include HTTP, NNTP, FTP, RTSP, and others. <u>All are
characterized by having some proportion of static content</u> and high utilization.
Cache server support for each protocol is, of course, required.

Since the cache must be kept fresh, there will still be tratàic from the ISP out to
the Internet, even if every bit of content requested by users is in a cache. Page
âeshness has to be assured, and new content must be downloaded. But by using
caching, bandwidth utilization can be optimized. <u>It is even possible to use a cache
with dynamic content, since even these pages have some static content that can be
served from a cache.</u> Depending on the distribution of tratàic and the scalability of
the cache, up to 40 percent of user HTTP requests can be taken off the network
and served from a cache. This makes networks more emcient, enabling better
performance to be offered at lower cost.

p. 20 (first paragraph)
<u>When necessary the proxy cache server will request dynamic and other short-lived
content from the origin servers. This enables content from the site to be served from a
local cache instead of from the origin server.</u> The proxy server can be optimized for high
performance, efficient operation, conserving resources, and <u>off-loading the origin server
from serving static content.</u>

p. 28 (last two paragraphs)
With good design even dynamically generated pages can benefit from caching. <u>By
separating the dynamic content of a page from the static content, the static content
can be cached and the dynamic content retrieved and downloaded separately.</u>

Advertisers concerned about tracking page views can mark a small part of their
page as uncacheable. These pass-though bytes are then used to record a page-view
hit or rotate a targeted ad banner. In this way the majority of bytes on the Web
page take advantage of the cache while content providers receive accurate page-
view statistics.

Regarding claim 1, Goulde's device performs the claimed steps and includes the claimed elements as indicated in the passages reproduced above.

Specifically relevant to the newly added limitations is the first paragraph from page 20 of Goulde's disclosure where he discusses proxy caching. Goulde teaches that the proxy cache server requests dynamic content from the origin server when necessary and combines it with static content stored in its own cache. This relieves the origin server from having to provide the static content. It is clear that the proxy cache uses software to identify static and dynamic portions and to integrate them and send them to the client that requested the document which has static and dynamic portions. It is also clear that the proxy cache is not part of the client as now claimed.

Regarding claims 2 and 18, Goulde's content includes the claimed information.

Regarding claim 3, Goulde's requesting element is local to a browser associated with the client as claimed.

Regarding claims 4, 13, and 14, Goulde's device redirects the request to a proxy server where the static information is cached as claimed.

Regarding claim 5, Goulde's device identifies a static portion and a dynamic portion in software local to the original server as claimed since the original server is able to provide only the dynamic content when requested.

Regarding claims 6 and 20, since Goulde mentions caching different versions (on pages 28, 33, and 36) for different reasons, his device inherently includes the claimed caching of a tag to provide information regarding the version.

Regarding claim 7, when Goulde's device examines the versions for particular browsers, it can be said to be comparing the different versions.

Regarding claim 8, Goulde's request is performed by a browser as claimed.

Regarding claim 12, Goulde's device performs the claimed steps and includes the claimed elements as indicated in the passages reproduced above.

Specifically relevant to the newly added limitations is the first paragraph from page 20 of Goulde's disclosure where he discusses proxy caching. Goulde teaches that the proxy cache server requests dynamic content from the origin server when necessary and combines it with static content stored in its own cache. This relieves the origin server from having to provide the static content. It is clear that the proxy cache integrates the static and dynamic portions and sends them to the client that requested the document which has static and dynamic portions.

Regarding claim 17, Goulde's proxy server includes a memory where static information is cached as claimed.

Regarding claim 19, Goulde's proxy server is logically local to the original server, as claimed.

Regarding claim 21, Goulde does not explicitly teach that his method is embodied in software instructions stored on a memory as claimed. However, it is clear that his proxy server includes software to perform its operations and this software must be stored in some type of memory since this enables flexible storage and modification when necessary.

Regarding the newly added limitation, it is clear that the client which sends the request for information is not part of the memory in Goulde's device.

Regarding claims 22, 23, and 26, even though there is no definition of "logically local" in the Applicant's specification, there is a definition of "logically remote" at page 9, lines 18 and following. From that definition, one can infer that "logically local" means there is a high probability that information will flow between the two devices on a regular basis. That is certainly true of the memory and the proxy server. It is also true of the memory and the client side browser.

Regarding claim 24, Goulde's server is included in a content delivery network.

Regarding claim 25, Goulde does not explicitly teach that his method is embodied in software instructions stored on a memory as claimed. However, it is clear that his proxy server includes software to perform its operations and this software must be stored in some type of memory since this enables flexible storage and modification when necessary.

Regarding the newly added limitation, it is clear that Goulde's proxy server performs the integrating and sends the integrated information to the client as claimed.

Regarding claim 27, Goulde's proxy server caches the static portion as claimed.

Conclusion

Applicant has attempted to challenge the Examiner's taking of Official Notice. However, Applicant has not provided adequate information or argument that *on its face* creates a reasonable doubt regarding the circumstances justifying the Official Notice. See MPEP 2144.03 and In re Boon, 169 USPQ 231 (CCPA 1971).

Applicant is reminded that for any challenge of a holding of Official Notice or well-known concepts to be effective, Applicant must provide adequate information, evidence, or argument that on its face creates a reasonable doubt about the holding. Mere allegation that something was not well-known at the time of the invention will not be considered an effective challenge and will not force the Examiner to provide a reference in support of the holding. See MPEP 2144.03 and In re Boon, 169 USPQ 231 (CCPA 1971). Since Applicant's traverse of the Examiner's assertion of Official Notice is not

adequate, the common knowledge statements are taken to be admitted prior art. Applicant's traverse is inadequate since Applicant merely states that he disagrees with the Examiner's statements. No evidence is presented refuting the Examiner's statements.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
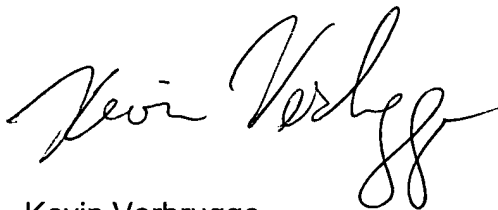
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this Office action should be directed to the Examiner by phone at (571) 272-4214.

Any response to this Office action should be labeled appropriately (including

serial number, Art Unit 2189, and type of response) and mailed to Commissioner for

Patents, P.O. Box 1450, Alexandria, VA 22313-1450, hand-carried or delivered to the

Customer Service Window at the Randolph Building, 401 Dulany Street, Alexandria, VA

22313, or faxed to (571) 273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197.

Kevin Verbrugge
Primary Examiner
Art Unit 2189